

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE DR JUSTICE SHAMEEM AKTHER**

Writ Appeal No.487 of 2009

JUDGMENT: {Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan}

This appeal, under Clause 15 of the Letters Patent, is preferred against the common order passed by the Learned Single Judge in W.P.Nos.15477 and 15493 of 2008 dated 20.08.2008. The appellants herein are the petitioners in the writ petition. They invoked the jurisdiction of this Court to declare the action of the respondents in not counting their seniority from the date of their regularisation, for the purpose of grant of 12 years stagnation increment, as arbitrary and illegal.

The appellants were appointed as Drivers/Conductors in Srikakulam, Vizianagaram and Visakhapatnam Rural Divisions in the years 1989, 1990 and 1991. Later on they became the employees of Visakhapatnam Urban Division. Their services were reckoned from the year 1993. Aggrieved thereby they submitted representations in the year 1996 and, by letter dated 20.04.2002, the Regional Manager, Visakhapatnam informed the appellants that, though they were appointed in different Divisions, they were absorbed in Visakhapatnam Urban Division on their request, on condition that they had to forego their seniority in the other Division. Aggrieved thereby, the appellants invoked the jurisdiction of this Court contending that regularisation of their services in 1989, 1990 and 1991 was at a time when they were functioning in Visakhapatnam Urban Division, and there was no basis for reckoning seniority with reference to a subsequent date.

In the counter-affidavit filed by the respondents, it was stated that it was only on the appellants exercising their option, were they absorbed in Visakhapatnam Urban Division subject to the condition that they would take the last rank in that Division.

In the order under appeal, the Learned Single Judge has observed that, while the appellants were appointed as Conductors/Drivers in different Rural Divisions, they were absorbed in Visakhapatnam Urban Division, but not against any vacancy in the said Division; the option was accepted subject to their foregoing their earlier seniority; the consequential orders to that effect were also passed; they took seniority from the date of exercising such an option which took place in the year 1993; representations were made by them in the year 1996; the impugned order was passed in the year 2002, and the writ petitions were filed in the year 2006; there was laxity on the part of the appellants in working out their remedies; they were assigned dates of appointment on the basis of their options; and they could not seek permanent transfer to Visakhapatnam Urban Division, and at the same time claim the benefit of their seniority in the other Divisions.

Sri S.M.Subhan, learned counsel for the appellants, would submit that the appellants are entitled to have their seniority reckoned from the date of their regularisation; and failure on the part of the respondents to grant them the benefit of seniority would necessitate interference by this Court.

Sri S.V.Ramana, learned Standing Counsel for the APSRTC, would, however, contend that the Writ Petition has been filed belatedly; and, since the Learned Single Judge refused to grant

relief on the ground of delay and laches, no interference is called for in an intra-court appeal under Clause 15 of the Letters Patent.

The appellants claim the benefit of being granted increments treating their service as commencing from the years 1980, 1990 and 1991, though their services were regularised in the year 1993. They did not approach the authorities till three years thereafter in the year 1996, and kept silent again for four years before approaching this Court, though their request was rejected in the year 2002 itself.

The Learned Single Judge has held that there was laxity on the part of the appellants in working out their remedies. In effect, the appellants were non-suited on the ground of unexplained delay and inordinate laches. In an intra-court appeal, under Clause 15 of the Letters Patent, interference is justified only if the order under appeal suffers from a patent illegality. We find no such infirmity in the order under appeal.

The Writ Appeal fails and is, accordingly, dismissed. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(DR. SHAMEEM AKTHER, J)

24th April, 2017
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Date: 24.04.2017

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